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Federal Communications Commission

DA 98-215

DISPATCHED

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-117
Table of Allotments,)	RM-9009
FM Broadcast Stations.)	
(Wray and Otis, Colorado))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 28, 1998

Released: February 6, 1998

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making* ("Notice"), 12 FCC Rcd 4232 (1997), issued in response to a petition for rule making filed by New Directions Media, Inc. ("petitioner"), licensee of Station KATR-FM, Channel 252C2, Wray, Colorado, proposing the substitution of Channel 252C1 for Channel 252C2 at Wray, the reallocation of Channel 252C1 to Otis, Colorado, and modification of its authorization accordingly. Petitioner filed supporting comments in response to the *Notice*. No other comments were received.

2. As stated in the *Notice*, petitioner seeks to invoke the provisions of Section 1.420(g) and (i) of the Commission's Rules to enable it to provide a first local transmission service to Otis, Colorado, and increase its service area. See *Modification of FM and TV Authorizations to Specify a New Community of License* ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), *recon. granted in part* ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). The proposed reallocation of Channel 252C1 to Otis, which is not within an urbanized area, is mutually exclusive with its existing authorization at Wray. The distance between Wray and the petitioner's specified site at Otis is 40.9 kilometers (25 miles), whereas a distance of 224 kilometers (139 miles) is required in this instance.¹

3. Petitioner stated its intention to relocate the transmitter site of Station KATR-FM, thereby creating signal gain and loss to areas and populations in the event Channel 252C1 is reallocated to Otis, as requested. In the *Notice*, petitioner was requested to provide data reflecting the areas and populations that will gain and lose existing service, as well as the total number of reception services presently available within the gain and loss areas. Petitioner responded that based upon its estimates, its reallocation request would result in the provision of a 60 dBu signal

¹Coordinates specified for a transmitter site at Otis are 40-08-54 and 102-57-48. Those at the licensed site of Station KATR-FM, Wray, are 40-12-36 and 102-29-24.

to approximately three times more residents than its present level of service at Wray, and a 70 dBu signal to approximately 15,000 more residents than the 5,000 persons served at its present location. Further, petitioner stated that the loss area at Wray would continue to be served locally by fulltime Station KRDZ-AM.

4. In order to fairly evaluate the petitioner's reallocation request, a staff engineering study was performed to examine the gain and loss projections premised upon the use of the petitioner's proposed reference coordinates at Otis. As a result, it has been determined that the loss area of Channel 252C2 at Wray, the smaller of the two communities, contains 3,128 people encompassing an area of 1,722 square kilometers (665 square miles). Additionally, we have determined that approximately 869 people are underserved within the loss area. However, the majority of the loss area receives at least four reception services. Moreover, there is no white or gray area created within the loss area. The projected gain area of Channel 252C1 at Otis contains 34,016 people in an area of 9,578 square kilometers (3,700 square miles). Therefore, petitioner's proposal represents a net gain of 30,888 people in an area of 7,856 square kilometers (3,035 square miles). We also find that a large portion of the projected gain area presently receives less than five full time services and includes 11,743 people who are currently underserved. Additionally, the underserved area within the projected gain area includes a gray area containing 101 people. There is no white area within the gain area.

5. Having determined the theoretical loss and gain projections under the Commission's *Change of Community R&O and MO&O, supra*, we must now compare petitioner's proposal with the existing arrangement of allotments under our FM allotment priorities to determine which would constitute a preferential arrangement of allotments.² The reallocation of Channel 252C1 to Otis, which is not within nor near an urbanized area, would provide that community with its first local aural service, thereby evoking allotment priority (3). The reallocation would also provide service to a gray area within an underserved area containing 101 people (priority 2). In contrast, retaining the existing arrangement of allotments at Wray would trigger lower allotment priority (4), other public interest matters, as it would result in the retention of a second local service at that community. Therefore, as the petitioner's proposal triggers a higher allotment priority than does the existing arrangement, the reallocation proposal will prevail.

6. As indicated in the *Notice*, Channel 251C1 can be allotted to Otis, Colorado, in conformity with Section 73.207(b)(1) of the Commission's Rules, utilizing the petitioner's proposed city reference location at coordinates 40-08-54 and 102-57-48.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 23, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with regard

²The allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).]

to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Otis, Colorado	252C1
Wray, Colorado	--

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of New Directions Media, Inc. (File No. BLH-940222KE), for Station KATR-FM, IS MODIFIED to specify operation on Channel 252C1 at Otis, Colorado, in lieu of Channel 252C2 at Wray, Colorado, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, New Directions Media, Inc., licensee of Station KATR-FM, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and upgrade at Otis, Colorado.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau